

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
JOHNSTOWN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No: 14-cr-23

vs.

Johnstown, Pennsylvania
November 6, 2014

JOSEPH D. MAURIZIO, JR.,

Defendant.

TRANSCRIPT OF DETENTION/EVIDENTIARY HEARING
BEFORE KEITH A. PESTO
DISTRICT MAGISTRATE JUDGE

A-P-P-E-A-R-A-N-C-E-S

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I N D E X

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November 6, 2014

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Defendant's

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<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>
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THOMAS R. SEITZ	14	16	
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RICHARD WILLIAM STERN	20	21	
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Government's

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<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>
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DAVID COLEMAN	25	28	33
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KEVIN PETRULAK	33	53	55/58
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CERTIFICATE OF REPORTER	43
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E X H I B I T S

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Government's

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<u>Exhibits:</u>	<u>Marked</u>	<u>Admitted</u>
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Exhibit 1	50
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Exhibit 2	50
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Exhibit 3	50
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1 P R O C E E D I N G S

2 (The proceedings convened on November 6, 2014, at 10:23
3 a.m.)4 THE COURT: All right. We're here. It's 10:30
5 on Thursday, November 6th, 2014, in Courtroom A for what
6 I hope is the last portion of the detention hearing in
7 the United States vs. Maurizio, Criminal Number 14-23.8 The defendant's present with counsel, Attorney
9 Passarello and Attorney Kiss. And the government is
10 present represented by Attorney Haines.11 Just to recount in one place the procedural
12 history: The complaint was submitted to me back in
13 September on the 25th, and I issued an arrest warrant
14 based on that.15 At the initial appearance the government moved
16 for three days under the Bail Reform Act to prepare its
17 case for detention.18 The detention hearing was actually held on --
19 let's see -- at the arraignment on the 14th of October,
20 at which time -- I'm sorry. The original detention
21 hearing was held on the 29th of September. After that
22 the government submitted the case to the grand jury and
23 an indictment was returned.24 At the arraignment I followed up on remarks I had
25 made at the detention hearing, saying that there was no

1 issue of risk to the community at that point, but that I
2 had detained the defendant based on what I saw as a risk
3 of flight due to some unclear information about
4 financial assets, and asked counsel to confer, and for
5 the defendant to provide the government with information
6 concerning financial resources. The government was then
7 to have ten days to vet that information and then get
8 back to me.

9 I followed up on that with a telephone call that
10 was held on the 27th of October, at which time it turned
11 out that there was a disagreement as to the import of
12 certain information that had been exchanged between
13 counsel. And the government also advised that it might
14 have some additional evidence that it wanted to present
15 on danger to the community.

16 This hearing was then set for October 30th. That
17 was subsequently rescheduled at the request of counsel
18 for today. So here we are.

19 I am expecting that the government is to present
20 evidence that it said it would present at the telephone
21 conference of an IRS agent. I believe there was also
22 something additional regarding danger to the community
23 that the government wished to present that was maybe by
24 proffer, maybe by testimony.

25 And as far as the defendant is concerned, the

1 defendant has proffered at the telephone conference an
2 explanation of two matters that the government had a
3 question about; one being an account that the defendant
4 contends is disclosed in the letter of October 16th, and
5 the other matter being a financial asset that is maybe a
6 trust fund in the hands of the Independent Catholic
7 Foundation or the Independent Foundation -- I'm not sure
8 what the name of the entity is.

9 MR. PASSARELLO: It's an endowment account.

10 THE COURT: It's an endowment account, all right.

11 So if you have evidence or if you have a live
12 witness for that or if you want to proceed by proffer,
13 however you prefer to proceed. All right. So let's go
14 first. The defendant, because the detention at this
15 point is based on risk of flight, and I was unclear
16 about all the information. Why don't you tell me about
17 the two items that the government questioned you about
18 at the time of the telephone conference.

19 MR. PASSARELLO: Yes, Your Honor. The first the
20 United States questioned was what was an Eaton Vance
21 account. I provided that Eaton Vance account. It was
22 in a packet with the Stifel Nicolaus documents that I
23 handed to the government in the conference room back
24 after the last hearing. It is an account -- if I may,
25 Judge -- I think it contains \$30,000, but I have the

1 account numbers, et cetera, for that account.

2 The second one, which I think is the one they
3 were more focused on was what I understand to be the
4 endowment accounts -- or the endowment account. It's my
5 understanding -- and I have a live witness here, Dick
6 Stern, to testify to that. But those are accounts that
7 my client does not have access to, but the explanation
8 of those accounts is as follows: There were three what
9 are known as burses, three accounts that were part of
10 the Altoona Diocese, Johnstown Diocese accounts. They
11 were Father Ignatius Peals account, Father Ignatius
12 Watts account, and I believe a DIDO fund, which was to
13 be used for church emergencies, et cetera.

14 Those accounts, by directive of the bishop, were
15 drained. And those accounts were closed and placed into
16 three new foundations with the Catholic Foundation.

17 THE COURT: Three new accounts with the Catholic
18 Foundation.

19 MR. PASSARELLO: Catholic Foundation.

20 Those monies were disbursed into those accounts
21 and I believe -- and I don't know if that's the accounts
22 that they're talking about -- but that's the only
23 accounts I could find with the Catholic Foundation after
24 she -- after Stephanie Haines -- U.S. Attorney Haines
25 referenced those in a phone conversation.

1 We talked with Dick Stern. Dick Stern is here to
2 testify, if necessary, that that was the history of
3 those accounts. That Father Joe has no independent
4 access to those accounts. And, in fact, he indicated to
5 me today that the only way he could get money off those
6 is to get interest only. So if that's the account that
7 they're talking about, that's my explanation for that
8 account.

9 THE COURT: All right. So he's not the legal
10 owner. Is he the beneficiary of those funds?

11 MR. PASSARELLO: No, he is not.

12 THE COURT: Okay. So why are they even listed as
13 connected to him?

14 MR. PASSARELLO: Because they referenced them,
15 and I had to answer them.

16 THE COURT: Okay.

17 MR. PASSARELLO: You know, if that's the accounts
18 that they're talking about. Now, I think Attorney
19 Haines indicated something about Independent Catholic
20 Charities. I could find nothing on Independent Catholic
21 Charities. What we did find was the foundations to the
22 Independent Catholic Foundation. So that would be my
23 explanation for that. If there's a different account,
24 I'm sure Dick Stern would testify to those. But because
25 they raised it I felt I had to explain.

1 THE COURT: All right. Does the government have
2 any information that there's any other account than the
3 ones referred to by Attorney Passarello?

4 MS. HAINES: Yes, Your Honor. In fact, we're
5 aware of the accounts he's talking about. What I
6 referenced before and was speaking about in the
7 endowment accounts are separate and distinct from that.
8 We have paperwork; I have the agent; I have a letter
9 that's specifically addressed to Father Maurizio dealing
10 with two separate endowment accounts. One is a
11 reference under HIM, this Humanitarian Interfaith
12 Ministries endowment account, which the present market
13 value at the end of last year was \$462,428.52.

14 THE COURT: All right. Back up. What was the
15 first number, two or four?

16 MS. HAINES: It's 462 thousand --

17 THE COURT: Okay. All right. Let me interrupt
18 you there, because that's the account I recall being the
19 controversy when we had our telephone conference, and
20 the amount was, at that time I thought it was \$200,000.

21 MR. PASSARELLO: That's what was stated.

22 MS. HAINES: And the actual account that has the
23 market value as of December 31st of 2013 is \$462,428.52.
24 It is the endowment account I said during the conference
25 call that was in the name or related to the HIM

1 Ministries, which Father Maurizio is involved with and
2 is the sole proprietor of HIM --

3 THE COURT: All right.

4 MS. HAINES: -- so that's what we are talking
5 about. That's what the witness is here to testify
6 about. And in addition to correspondence specific to
7 that that were sent to the defendant as to whether or
8 not he was interested in any type of disbursements out
9 of this large amount --

10 THE COURT: All right.

11 MS. HAINES: -- which was of concern to us
12 because we hadn't heard about it, we had to find it on
13 our own, and we still continue to, obviously, have to be
14 finding them on our own because they are not sure or
15 aware of it.

16 THE COURT: All right. Anything on what Attorney
17 Passarello said that you're not already aware of or that
18 you contest?

19 MS. HAINES: About the --

20 THE COURT: The Independent --

21 MS. HAINES: -- Eaton Vance account?

24 MS. HAINES: Your Honor, we would ask -- our
25 understanding the Eaton Vance account wasn't \$30,000 so

1 we're interested --

2 THE COURT: I remember the amount, again when we
3 discussed on the telephone, the amount was about
4 \$100,000.

5 MS. HAINES: Correct.

6 THE COURT: So either there's been a disbursement
7 for that account or we're talking about two different
8 accounts.

9 MS. HAINES: Correct.

10 THE COURT: Now, I understand that there's
11 disbursements for counsel fees and so on which may or
12 may not. But, Attorney Passarello, is it 30 or is it
13 100?

14 MR. PASSARELLO: Judge, I apologize. I believe
15 it -- let me see if I can get that account, what I have
16 of record. Again, I apologize.

17 No, Judge, I apologize. It was the exact figure
18 I told you at the hearing, which was 106 -- I'm sorry,
19 127,824.33.

20 THE COURT: All right. Does that jibe with your
21 figures, speaking in this case --

22 MR. PASSARELLO: And that would have been the --

23 THE COURT: Hang on a second. Speaking -- my
24 last comment was directed to the government, and they're
25 conferring.

1 Now you had a clarification, Attorney Passarello?

2 MR. PASSARELLO: I apologize, Judge. That was
3 from the document that I spoke to you about on the
4 phone, and the document that was given to them in the
5 conference room.

6 THE COURT: Okay. Turning to Attorney Haines,
7 does that jibe with the figures that you have?

8 MS. HAINES: What we understood is there was a
9 disbursement out of the Eaton Vance account of
10 127,000-odd dollars that was going to pay attorney fees.

11 THE COURT: That was discussed way back on
12 October 14th. That was prior to. This is something
13 separate. Do you have any information that that
14 \$100,000 isn't what Attorney Passarello claims it to be?

15 MS. HAINES: Well, we don't understand exactly
16 what he's saying is left in that account. Is it 30,000
17 or 106,000?

18 THE COURT: I think what he's saying is he
19 misspoke earlier when he said 30. It really should be
20 100.

21 Is that what you're saying?

22 MR. PASSARELLO: That is, Your Honor.

23 THE COURT: All right. Okay. So he --

24 MR. PASSARELLO: I'm going by the document that I
25 have, which is dated 9/26/2014.

1 THE COURT: Okay.

2 MS. HAINES: Our understanding, Your Honor, is
3 the 127,000 that was taken out plus for attorneys fees
4 emptied the account. But then there was 103,000 or so,
5 104,000 left over that was in a John Hancock Venture
6 Annuity that was the remainder of that.

7 MR. PASSARELLO: And that is correct also, Judge.
8 The John Hancock Annuity is also part of that document
9 that was provided, and I believe is also in the letter
10 that we sent to the United States --

11 THE COURT: Right.

12 MR. PASSARELLO: -- that was from that paragraph.

13 THE COURT: Yeah. That's Paragraph 3 on the
14 second page of the letter of October 16th, so that's
15 already been out there for almost a month now.

16 Is there anything -- all right. I think I
17 understand what's going on with the \$100,000 account.
18 The more important thing is you have what you thought
19 was 200 -- now \$400,000 -- in this HIM Ministries.

20 All right. Tell me, Attorney Passarello, before
21 they put a witness on the stand about this. Are you
22 aware of that, and does your client have any control or
23 legal interest, any access to that fund?

24 MR. PASSARELLO: Judge, the only named accounts I
25 was aware of is what I put in the letter. But I do have

1 a member of Wesell and Company here that can testify as
2 to that HIM account --

3 THE COURT: All right. Let's hear --

4 MR. PASSARELLO: -- and also Dick Stern, that --

5 THE COURT: All right.

6 MR. PASSARELLO: -- can testify as well.

7 THE COURT: All right. Let me hear where that
8 account is, because if this defendant has access or
9 control of that account, that's a significant matter.

10 So let's actually have --

11 MR. PASSARELLO: It is a significant matter --

12 THE COURT: All right. So then I want to have --

13 (Request by the court reporter to speak one at a
14 time.)

15 THE COURT: Okay. Sorry. The boss. Okay.

16 Folks, the hierarchy in the courtroom is basically boss,
17 employee, everybody else.

18 All right. So let's have the witness from Wesell
19 and Company get on the record what this HIM account is.

20 MR. PASSARELLO: From Weimer -- Wesell. I
21 apologize.

22 (The witness was placed under oath by Courtroom
23 Deputy Price.)

24 THOMAS R. SEITZ, DEFENDANT'S WITNESS, SWORN

25 THE COURT: All right. Before we get started,

1 one of the facts of advancing age is you tend to meet
2 more and more people. Mr. Seitz, we've never met
3 before. You look like a Seitz. Are you related to
4 Paul?

5 THE WITNESS: I am.

6 THE COURT: How are you related to Paul?

7 THE WITNESS: Brother.

8 THE COURT: Geesh. All right. My assistant's --
9 I coach soccer at Forest Hills High School. My
10 assistant coach is Paul Seitz. So although I've never
11 met you, and it doesn't constitute any conflict, I am
12 familiar with the Seitz family. All right. Go ahead.

13 MR. PASSARELLO: Thank you.

14 DIRECT EXAMINATION

15 BY MR. PASSARELLO:

16 Q. Mr. Seitz, would you state your full name and spell
17 it for the record.

18 A. Thomas R. Seitz. S-E-I-T-Z.

19 Q. And where are you employed?

20 A. Wessel and Company.

21 Q. And where is that located?

22 A. 215 Main Street.

23 Q. And are you a CPA?

24 A. Yes.

25 Q. Let's cut to the chase. Do you know Father Joseph

1 Maurizio?

2 A. Yes.

3 Q. Does your company handle a number of accounts for
4 him?

5 A. We handle the Humanitarian Interfaith Ministries.

6 Q. You heard the United States attorney reference an
7 HIM Ministries endowment account with approximately
8 \$400,000 in it?

9 A. Yes.

10 Q. Are you familiar with that account?

11 A. Yes.

12 Q. Would you explain to the Court what that account is
13 and what access, if any, that Father Joe has to that
14 account.

15 A. It is an account that's handled by Independent
16 Catholic Foundation, the Diocese of Altoona/Johnstown.
17 So they have full control over that account, how they
18 invest the monies. Humanitarian Interfaith Ministries
19 has access to income and accumulation of income.

20 The latest statement that I've seen -- and this is
21 from Bill Hilldyke, the executive director -- there was
22 about \$23,500. And this was as of 12/31/2012.

23

24 Q. Okay. And this account, is it -- are you saying
25 Father Joe does not have direct access to that account?

1 Like can he go to you and get a check out of that
2 account?

3 A. He cannot.

4 Q. Is he able to withdraw funds on his own from that
5 account?

6 A. He would have to go through the Independent Catholic
7 Foundation.

8 Q. Okay. So you can't release money to Father Joe
9 directly from that account?

10 A. Correct.

11 Q. Okay. And just so we're clear, are we talking about
12 the same account that United States Attorney Haines is
13 talking about?

14 A. Yes.

15 Q. And who is the owner of that account again?

16 A. It's Independent Catholic Foundation.

17 MR. PASSARELLO: All right. I don't have
18 anything further from this witness.

19 THE COURT: Cross examine.

20 MS. HAINES: Yes, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. HAINES:

23 Q. Mr. Seitz, are you aware that Father Maurizio was
24 sent the letters and given the updates as to how much
25 money is accessible in those accounts?

1 A. Yes.

2 Q. And would you agree with me the endowment account
3 that we're talking about is in excess of 462,000 as of
4 December 31st of 2013?

5 A. Yes.

6 Q. Are you aware of the fact that also when Father
7 Maurizio is sent the update that he is provided the
8 semiannual update regarding the endowment of interest to
9 you, that he is also provided with a distribution
10 application that can be filled out for the distribution
11 of specific available funds?

12 A. Yes.

13 Q. And you are aware of the fact that HIM Ministries is
14 actually Joseph Maurizio, correct?

15 A. Yes.

16 MS. HAINES: I have no further questions.

17 THE COURT: All right. Thanks. You may step
18 down unless -- is there any redirect?

19 MR. PASSARELLO: No.

20 THE COURT: Okay. All right. You may step down.
21 Thank you.

22 THE WITNESS: Thank you.

23 THE COURT: That takes care of that. Anything
24 else as far as the accounts themselves?

25 MS. HAINES: Your Honor, actually, my agent also

1 just referenced to me and pointed out to me that there
2 is another Topshop Memorial Endowment Fund that is
3 directed by letter to Father Maurizio regarding an
4 endowment that is of interest to him that as of
5 December 31st of 2012 has \$102,030.94 in it as well that
6 we --

7 THE COURT: When you say "of interest to him"
8 what do you mean?

9 MS. HAINES: The letter says, "Dear Father
10 Maurizio, we are pleased to provide this annual update
11 regarding the endowments of interest to you. Please see
12 below for updated values" and --

13 THE COURT: All right.

14 MS. HAINES: -- there's --

15 THE COURT: Are you saying that he has legal or
16 beneficial interests in these accounts? Because, you
17 know, we could go through every bank account in Western
18 Pennsylvania.

19 MS. HAINES: Well, Your Honor, if I recall, the
20 direction from the beginning of this was to disclose any
21 possible assets --

22 THE COURT: Right.

23 MS. HAINES: -- that may be in the hands of or in
24 the name of the defendant. My agents have undertaken an
25 extensive research of thousands of records. They are

1 relating to me, as I am relating to you, additional
2 possible assets that are coming up during their
3 investigation with a lot of money that is pointing back
4 to the defendant.

5 THE COURT: Right.

6 MS. HAINES: So I bring that up because that is
7 another one we found that we have not heard about
8 before, and it is directed to Father Maurizio via
9 letter.

14 So, Attorney Passarello, are you aware of --
15 what's the name of this account?

16 MR. PASSARELLO: It's Topshop.

17 MS. HAINES: Topshop Memorial Endowment Fund.

20 MR. PASSARELLO: I have Dick Stern here that can
21 testify --

24 MR. PASSARELLO: Mr. Stern.

25 (The witness was placed under oath by Courtroom

1 Deputy Price.)

2 RICHARD WILLIAM STERN, DEFENDANT'S WITNESS, SWORN
3 DIRECT EXAMINATION

4 BY MR. PASSARELLO:

5 Q. Mr. Stern, would you spell your full name for the
6 record, please.

7 THE COURT: He already did that. We have that.

8 MR. PASSARELLO: I'm sorry.

9 Q. Let's cut to the chase. Are you familiar with
10 what's known as Topshop Foundation and HIM Foundation
11 through Independent Foundation of Catholic Charities?

12 A. I am familiar that they exist. I do not receive the
13 reports of those.

14 Q. Okay. Are you familiar with who owns the accounts?

15 A. Yes.

16 Q. Who owns them?

17 A. Humanitarian Interfaith Ministries.

18 Q. Okay. Are they assets of Father Joe?

19 A. No. I would say they're assets of Humanitarian
20 Interfaith Ministries.

21 Q. Do you know anything about how those accounts work?

22 A. They are accounts with the Independent Catholic
23 Foundation. They are endowment accounts. They work as
24 Mr. Seitz described. I have not seen the endowment
25 agreements for those, but every endowment agreement that

1 I know of for the Catholic Foundation allows only access
2 to accumulated interest.

3 Q. Okay. And Mr. Seitz testified as to the HIM
4 Foundation -- I'm assuming I can call him back for
5 Topshop. Father Joe can't cut a check to himself on
6 these accounts?

7 A. No. He would have to go through the Independent
8 Catholic Foundation, as Mr. Seitz described.

9 Q. Okay. And this asset -- just so we're clear,
10 they're not in his name and he can't draw on them unless
11 he goes through a process?

12 A. Right. His only association would be with
13 Independent Catholic Foundation.

14 MR. PASSARELLO: I don't have anything further.

15 THE COURT: Cross examine.

16 CROSS-EXAMINATION

17 BY MS. HAINES:

18 Q. You would agree with me, sir, that HIM is Father
19 Maurizio, correct? The HIM --

20 A. He controls --

21 Q. -- Foundation?

22 A. He controls HIM, yes.

23 MS. HAINES: Thank you, Your Honor. That's all.

24 THE COURT: All right. I didn't get clear where
25 you are employed, what's your official role?

1 THE WITNESS: I'm retired. I am the -- from
2 35 years with the Somerset Trust Company. I am the
3 finance chairman for Our Lady Queen of Angels parish.

4 THE COURT: I see. Okay.

5 THE WITNESS: That's how I get asked all the
6 questions about the finances.

7 THE COURT: And so an endowment fund in the
8 amount of \$100,000 spins off maybe \$4,000 a year in
9 interest, if you invest it prudently and not invading
10 the principal?

11 THE WITNESS: It varies quite a bit and --

12 THE COURT: Depends on how the market goes.

13 THE WITNESS: Yes.

14 THE COURT: All right. So what's available to be
15 distributed by the Independent Catholic Foundation is
16 the increase in value, or what you refer to as accrued
17 interest?

18 THE WITNESS: That's correct.

19 THE COURT: And that distribution is done by
20 application to the Independent Catholic Foundation in
21 accordance with what, the written instrument creating
22 the endowment?

23 THE WITNESS: That's correct.

24 THE COURT: All right.

25 THE WITNESS: If you think of the endowment

1 agreement as a trust agreement that's -- being in
2 banking that's the way I think of it.

3 THE COURT: So it's not a checking account that
4 any person can go and withdraw from. It's a source of
5 funds that a person applies for if, for instance, you
6 needed reimbursement for an expense that was covered by
7 the terms of the trust agreement?

8 THE WITNESS: That is correct.

9 THE COURT: All right. And the trust is
10 controlled by the Independent Catholic Foundation?

11 THE WITNESS: That is correct.

12 THE COURT: And the trustees of that foundation
13 are?

14 THE WITNESS: There is a board of trustees.

15 THE COURT: There is a board of trustees. Any of
16 them linked to Queen of Angels, Father Maurizio, or you?

17 THE WITNESS: I do not know exactly all of them.
18 I do not believe so. I mean, I might know someone from
19 the business world, but not -- not directly.

20 THE COURT: Father Maurizio doesn't have
21 appointment or removal power of the board of trustees?

22 THE WITNESS: Absolutely not.

23 THE COURT: Okay. All right. That's what I'm
24 concerned with.

25 All right. In light of my questions, do either

1 of counsel have anything further?

2 MR. PASSARELLO: No, Your Honor.

3 MS. HAINES: No, Your Honor.

4 THE COURT: All right. You may step down.

5 THE WITNESS: Thank you.

6 THE COURT: All right. You wanted to present
7 your IRS agent. I think we've pretty much beaten to
8 death the HIM Ministries, at least from the
9 defendant's point of view. But you had some information
10 that you wanted to put on the record as well.

11 MS. HAINES: We actually have two witnesses, yes,
12 Your Honor, today.

13 THE COURT: All right. Okay. Well, let's hear
14 what you referred to as the IRS agent first, and then
15 you've got -- who's the other one?

16 MS. HAINES: Well, I prefer to put my other agent
17 on first.

18 THE COURT: Who's the other one?

19 MS. HAINES: The other agent is from Homeland
20 Security. Special Agent David Coleman. He has
21 actually --

22 THE COURT: Is this in reference to the
23 photograph?

24 MS. HAINES: All this is in reference to
25 something that has just occurred that we were briefed on

1 this morning.

2 THE COURT: Oh, this morning. Okay. Well,
3 that's news to me. Go ahead. Let's put him on first.

4 (The witness was placed under oath by Courtroom
5 Deputy Price.)

6 DAVID COLEMAN, GOVERNMENT'S WITNESS, SWORN

7 DIRECT EXAMINATION

8 BY MS. HAINES:

9 Q. Please state your name for the record.

10 A. My name is David Coleman. I'm a special agent with
11 Homeland Security Investigations, posted duty
12 Pittsburgh, Pennsylvania.

13 Q. How long have you been so employed with HSI?

14 A. Since June 2009.

15 Q. And prior to being employed with HSI by whom were
16 you employed?

17 A. I was employed by Customs and Border Protection.

18 Q. And for what period of time?

19 A. From November 2007 until June 2009.

20 Q. And prior to your employment in 2007 how were you
21 employed?

22 A. I was a crime scene technician with the Waterbury
23 Police Department in Waterbury, Connecticut.

24 Q. Specific to your current employment with HSI, what
25 are your duties and responsibilities as a special agent?

1 A. Yes. I investigate the customs and immigrations
2 laws of the United States and violations thereof.

3 Q. And have you become part of the investigative team
4 on Defendant Maurizio?

5 A. Yes, I have.

6 Q. And what has your role been as part of this
7 investigative team?

8 A. I've participated with interviews and going through
9 financial documents.

10 Q. And are you aware of the fact that there are certain
11 members of the investigative team that as of Monday were
12 in country conducting further interviews, based on
13 previous evidence we have received?

14 A. Yes, I am.

15 Q. And as a result of the current investigation in
16 country, were we back-briefed last night -- and more
17 specifically you this morning -- as to the current
18 status of witness and potential victim identification?

19 A. Yes, I was. Based upon prior witness interviews, an
20 additional victim in this case was identified and he was
21 interviewed.

22 Q. And was the team able to locate and find the
23 additional victim that had been referenced by multiple
24 previous witnesses, as part of a previous investigation
25 in country?

1 A. Yes. Yes, he was.

2 Q. And was that interview conducted in country
3 yesterday?

4 A. Yes.

5 Q. And could you tell the Court the result of what that
6 interview with this victim relayed.

7 A. Yes. This victim stated that he was abused by
8 Joseph Maurizio starting at approximately the age of 12
9 or 13. The abuse started with over-the-pants fondling
10 of the genitals, progressed to under-the-pants fondling
11 of the genitals, and anal sex performed by the victim on
12 Joseph Maurizio.

13 Q. And did we seek out this victim as a result of prior
14 witnesses who say they observed this activity being
15 perpetrated by the defendant against this victim?

16 A. Yes.

17 Q. And as a result of that did we have to actually
18 locate and find this victim on our own?

19 A. Yes. This victim traveled quite a distance in order
20 for the agents in country to interview.

21 Q. And during the interview when the victim relayed
22 what had happened to him, did he also identify by
23 picture exactly who had perpetrated these sexual crimes
24 on him?

25 A. Yes. He identified Joseph Maurizio.

1 Q. In talking with the team that's currently on the
2 ground, are they continuing to identify and attempting
3 to locate additional victims that have been identified
4 to them through witnesses?

5 A. They are also trying to identify witnesses and
6 additional victims.

7 Q. And are they aware of or have they heard the names
8 and identities of additional potential victims that they
9 are currently trying to find right now?

10 A. Yes, I believe so.

11 Q. As a result of the information that was obtained
12 from the agents who just arrived in country this week,
13 and as a result of the interview that was conducted
14 yesterday, do you understand what the intention is, both
15 with the United States and with the Honduran authorities
16 relative to this new information?

17 A. Yes. The Honduran authorities will lodge additional
18 charges, and I believe this indictment will be
19 superceded.

20 MS. HAINES: No further questions.

21 THE COURT: Cross examine.

22 CROSS-EXAMINATION

23 BY MR. PASSARELLO:

24 Q. This interview occurred where, what country?

25 MS. HAINES: Your Honor, may we approach briefly

1 on that question?

2 THE COURT: Do you want this on the record or
3 off?

4 MS. HAINES: On the record.

5 THE COURT: Okay.

6 MS. HAINES: Sidebar, please.

7 THE COURT: Okay. Over here.

8 (The following proceedings were held at sidebar:)

9 MS. HAINES: The question that's been asked by
10 defense counsel as to exactly what country this has
11 occurred in, the United States is cautious about
12 releasing that as a result of we have a team in country.
13 It is a very volatile country. It is a very violent
14 location they're located in.

15 My understanding is that this is a very big
16 contentious issue, not only here but also in the country
17 where our team is currently located. I specifically
18 talked with them about the danger or violence they are
19 currently experiencing, just because of where they're
20 located. They're safe. My concern is identifying it in
21 open court where an ongoing investigation is located at
22 this point.

23 THE COURT: Well, you just on the record in open
24 court in front of everybody else accused this guy of --

25 MS. HAINES: I didn't accuse him, Your Honor.

1 There was evidence that was submitted --

2 THE COURT: Right. You're accusing him of
3 perpetrating crimes, and your agent said we're going to
4 supercede the indictment. And now you don't even want
5 cross-examination as to where these accusations took
6 place?

7 MS. HAINES: I'm just asking for a ruling, Your
8 Honor. That's it. If you tell us we have to say it,
9 we'll say it --

10 THE COURT: Yeah.

11 MS. HAINES: -- I just need to protect the
12 agents --

13 THE COURT: I'm overruling --

14 MS. HAINES: -- in that respect, but I understand
15 and --

16 THE COURT: Yes.

17 MS. HAINES: That's fine.

18 (The following proceedings were held in open
19 court:)

20 THE COURT: The objection is overruled.

21 BY MR. PASSARELLO:

22 Q. Do you remember the question?

23 A. I do.

24 Q. Okay. And what country?

25 A. Honduras.

1 Q. And this allegation made by this individual, what
2 time frame are we talking about that these occurred --
3 or this incident occurred?

4 A. This would be starting approximately 2005 or 2006,
5 if I recall the dates correctly.

6 Q. And in the initial -- are you familiar with the
7 initial complaint that the United States filed in this
8 case?

9 A. Not verbatim, no.

10 Q. Okay. Are you aware in that initial complaint
11 they'd referenced potentially four victims?

12 A. I was not aware of that.

13 Q. Are you aware that the indictment in this case
14 indicted on only one victim?

15 A. Yes, I am aware of that.

16 Q. One of the allegations made in the original
17 complaint that was filed that was not indicted on was
18 substantially similar to what you testified to. Is that
19 the same child, do you know -- if you know?

20 A. I do not know.

21 Q. Okay. And as you sit here today, can you testify
22 before this Court that charges actually have been filed
23 in Honduras on this child?

24 A. The second minor or the first one?

25 Q. The one you're talking about.

1 A. Not -- not to my knowledge.

2 Q. As you sit here in court today, can you testify
3 before this Court that charges have been filed by the
4 United States on this child that you're talking about
5 against Father Joe?

6 A. No.

7 MR. PASSARELLO: I have nothing further from this
8 witness.

9 THE COURT: Any redirect?

10 MS. HAINES: No, Your Honor.

11 THE COURT: Sir, hang on a second.

12 THE WITNESS: Yes, sir.

13 THE COURT: The original complaint presented to
14 me referred to John Doe One, John Doe Two, and John Doe
15 Three. To the best of -- do you know whether this
16 person identified is either John Doe One, John Doe Two,
17 or John Doe Three?

18 THE WITNESS: I do not, Your Honor.

19 THE COURT: You have no idea who John Doe One,
20 John Doe Two, and John Doe Three are?

21 THE WITNESS: No, I do not.

22 THE COURT: All right. The events that you're
23 referring to took place allegedly when this individual
24 was 12 or so.

25 THE WITNESS: Starting approximately --

1 THE COURT: And that was 2005, so that individual
2 is now 21, 22 years old?

3 THE WITNESS: To the best of my knowledge, yes.

4 THE COURT: All right. Just wanted to make sure
5 my math is correct.

6 In light of my comments, do either counsel have
7 anything else?

8 MS. HAINES: Just one question, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. HAINES:

11 Q. You are not aware of exactly what's contained in the
12 complaint, correct, Special Agent Coleman, because you
13 were not the affiant on that complaint?

14 A. That is correct. I do not.

15 MR. PASSARELLO: Nothing for me.

16 THE COURT: All right. And then your other
17 witness.

18 MS. HAINES: I would call Special Agent Kevin
19 Petrulak.

20 (The witness was placed under oath by Courtroom
21 Deputy Price.)

22 KEVIN PETRULAK, GOVERNMENT'S WITNESS, SWORN

23 DIRECT EXAMINATION

24 BY MS. HAINES:

25 Q. Special Agent Petrulak, by whom are you employed?

1 A. I'm employed by the Criminal Investigation Division
2 of the Internal Revenue Service.

3 Q. How long have you been so employed?

4 A. Since January of 2002.

5 Q. And where is your current duty station located?

6 A. Pittsburgh, Pennsylvania.

7 Q. As a special agent with the Criminal Investigation
8 Division of the IRS what are some of your duties and
9 responsibilities?

10 A. We conduct any sort of investigations that would
11 have some sort of financial nexus, which obviously would
12 include violations of Title 26, the tax code, such as
13 tax evasion. But it also includes money laundering and
14 the structuring of money which could -- the number of
15 related crimes that is connected to those charges or
16 those type of investigations vary greatly.

17 I personally have already been involved in narcotics
18 investigations, investigations related to immigration
19 and customs violations, investigations into food stamp
20 fraud. I could go on and on. Investment fraud
21 investigations, in addition to the numerous tax
22 investigations that I've conducted.

23 Q. And you said you've been with the IRS Criminal
24 Investigation Division for approximately 13 years?

25 A. That's correct.

1 Q. Is it fair to say that as a special agent you try to
2 follow the money or you try to find out where the
3 money's coming from?

4 A. Yeah. That's very true. But in addition to that
5 I'm more -- personally, I like to liken it to I take
6 large volumes of information, document information, and
7 I dwindle it down into summaries that can be easily
8 understood to either prove or disprove allegations
9 against individuals.

10 I've also -- I've organized thousands of pages of
11 airline records, telephone, toll records, various other
12 travel records. In addition to the financial records
13 that I analyze, I'm able to take that information, mass
14 volumes of information, and put it into a condensed form
15 that's easily understood and will either disprove or
16 prove allegations against somebody.

17 Q. And how did you become involved with the case
18 against Defendant Maurizio?

19 A. A group supervisor from HSI approached me about
20 assisting them with the investigation after they learned
21 that Mr. Maurizio had a large amount of personal
22 savings. And this didn't come to light until charges
23 were brought forth in relation to the exploitation
24 charges. So they asked me to come onboard to assist
25 Agent Coleman, because time is of the essence and they

1 needed more manpower on figuring out exactly where this
2 money came from, if possible, and so on and so forth.

3 Q. And what did you do then when you became part of the
4 team in reference to this "where did the money come
5 from"?

6 A. Agent Coleman had already subpoenaed some financial
7 institutions for accounts that he had already
8 identified, so I began looking at those records and
9 analyzing those records.

10 Q. And did you also, as part of your investigation,
11 expand the type of records and the number of records
12 from financial institutions that you wanted to look at?

13 A. Yes. Typically, I'll do a cursory look at the
14 records that I have available, and I'll look through to
15 see if there's any transactions between other financial
16 institutions. And then if we don't have those records
17 already, then I'll ask you to send a subpoena out for
18 those records as well.

19 Q. And in doing this were you able to discover numerous
20 personal accounts in the name of Defendant Maurizio, as
21 well as several what I would call joint accounts where
22 Defendant Maurizio's name and someone else's might have
23 been on it?

24 A. Yes. I found numerous personal bank accounts.
25 There was two checking accounts in addition to the

1 multiple investment accounts. The joint accounts would
2 have been mostly related to the HIM Ministry. However,
3 there were also ministry accounts related to Our Lady
4 Queen of Angels church and the various other church
5 accounts that he also had access to, some of which he
6 had sole access to.

7 Q. Could you summarize for the Court, specific to his
8 personal accounts that he had sole or has sole access
9 to, exactly what your analysis and findings revealed in
10 a general sense.

11 A. In a general sense there wasn't a large amount of
12 money in the checking accounts. Off the top of my head,
13 I believe the one account has approximately \$10,000 in
14 it. The other one much less than that. The one
15 checking account was -- most of the balance was
16 withdrawn in September of 2014, so the balance in there
17 was minimal. However, his investment accounts were
18 significant. In all, his investment accounts total over
19 \$1 million in assets.

20 Q. You also referenced that there were some accounts
21 that he either held jointly with the church or even some
22 church accounts he held on his own.

23 Is that correct?

24 A. That's correct.

25 Q. What did your analysis of these show you?

1 A. The HIM Ministries accounts have an approximate
2 balance I believe of \$88,000 in them currently. Those
3 are joint accounts. Mr. Stern, I believe, is the only
4 other signature on the account. But they're dual
5 signature accounts. So in addition to Mr. Maurizio,
6 Mr. Stern also has to endorse those checks to withdraw
7 that money.

8 Mr. Maurizio also had access to a couple of church
9 ministry accounts; one being Matthew 25 Ministry, the
10 other one being Central City Youth Ministry. But also
11 additional signatures were needed on those accounts.
12 But I believe those two ministries were also helping the
13 fund, the HIM Ministries as well, so they were certainly
14 linked together in some fashion.

15 And off the top of my head, I know the one, Our Lady
16 Queen of Angels account that Mr. Maurizio has -- and I
17 believe he still has; I'm not sure if it's been resolved
18 yet -- sole access to would be the Mass Stipend account,
19 which I can't recall exactly how much is in it off the
20 top of my head, but there was significant money in that
21 account too.

22 Q. As a result of collecting the, you said about
23 \$1 million or so of reports from his personal bank
24 accounts, as well as all the joint accounts with the
25 church or with HIM, did you then start trying to

1 condense or analyze and come to some resolution about
2 the movement of money or where money was coming from and
3 going to?

4 MR. PASSARELLO: Judge, I'm going to object at
5 this point. We made a request from the United States
6 that if they intended on calling this individual as an
7 expert witness and providing expert opinion above and
8 beyond what a lay witness would know in regard to these
9 accounts, that we would request a report and then the
10 opportunity to respond.

11 The United States sent me a letter and indicated
12 that they were solely calling this individual as a fact
13 witness, which he has testified to facts up and until
14 this point. But I think at this point they're asking
15 him to come to an ultimate conclusion that's simply in
16 the realm of an expert opinion.

17 THE COURT: I have a clarification question
18 before I go further. Is there anything, Agent, that
19 you've testified to that is not already listed in the
20 letter that was sent by Attorney Passarello to Attorney
21 Haines on October 16th? Because what you've been
22 referring to looks like it tracks information already
23 disclosed.

24 THE WITNESS: Sure. To this point, no, I haven't
25 --

1 THE COURT: So there's not --

2 THE WITNESS: -- additional, but I do have
3 additional information yet to testify about.

4 THE COURT: All right. Why don't we get the
5 factual testimony on the record, and then you're going
6 to ask him for an expert opinion --

7 MS. HAINES: No, Your Honor, I'm not.

8 THE COURT: Oh, you're not? Okay.

9 MS. HAINES: I'm not asking for an expert
10 opinion. I'm asking him to detail what he did, how he
11 did what he did, and what the numbers showed as a result
12 of what he did.

13 THE COURT: All right. Well, then I take it as
14 the question that you were objecting to is withdrawn,
15 and she's going to rephrase it. Let's go ahead.

16 BY MS. HAINES:

17 Q. Could you explain to the Court exactly how you
18 undertook to evaluate the information relative to the
19 financial situation of the defendant.

20 A. Sure. After my cursory review of the records to see
21 if I could identify any additional places that we needed
22 to send subpoenas out to --

23 THE COURT: I'm sorry. I just -- any additional
24 places that what?

25 THE WITNESS: After my cursory review initially

1 when I looked through the documents to see if I can
2 identify any other financial institutions that we could
3 send subpoenas to --

4 THE COURT: Oh, send subpoenas.

5 THE WITNESS: -- and get those records in, then I
6 began taking those records and inputting them into an
7 Excel spreadsheet.

8 And then once -- and the three accounts that I've
9 analyzed so far for the records that we've received are
10 the Somerset Trust personal account, the 1st Summit
11 personal checking account, and the Stifel Nicolaus
12 account, investment account.

13 And so I put the debit and credit items into a
14 spreadsheet, which is approximately 2,000 lines long.
15 And then after I have a master spreadsheet, then I'm
16 able to sort the debits from the credits and I'm able to
17 sort by payee and payor and find out exactly where the
18 money into those accounts came from and where it went.

19 BY MS. HAINES:

20 Q. Okay. And when you said you did that for the
21 credits and the debits, did you then condense a huge
22 spreadsheet into smaller spreadsheets relative to
23 credits and debits?

24 A. I did. I created from the master spreadsheet, I
25 took and I made one spreadsheet with all the credits and

1 then another spreadsheet with all the debits. And then
2 I looked in those spreadsheets for items that would be
3 of interest for this hearing in particular, and I made
4 smaller more condensed spreadsheets just highlighting
5 those particular items that we wanted to talk about
6 today.

7 MS. HAINES: May I approach, Your Honor?

8 THE COURT: Sure.

9 Q. I'm showing you what's been marked as Government
10 Exhibit Number 1. Do you recognize that?

11 A. I do.

12 Q. Would you tell the Court what that is.

13 A. This is a summary of the credits from the three
14 personal accounts that I've analyzed, and this is
15 actually -- it's seven pages. This is not all of the
16 deposits into these accounts. These are the items that
17 I deemed to be of interest to our investigation of
18 Mr. Maurizio.

19 Q. And could you explain to the Court the significance
20 of what you were seeing as you were putting everything
21 into this spreadsheet and what you were looking at.

22 A. Sure. I'll just start on page 1. I'm not aware of
23 any cash source that Mr. Maurizio has, so any cash
24 deposits, which you can see on the top of the page
25 totaling \$9,195 would be of interest to us because,

1 again, we're not aware of any source of cash that he
2 has.

3 Below the cash deposits you see all the deposits
4 from Central City Youth Ministries into his personal
5 accounts. And if you read the column "memo," that would
6 be what would be written in the memo line of these
7 checks. And you can see that it appears that he's being
8 reimbursed for various items that he appeared to have
9 initially incurred the expense on, and now he's being
10 refunded for those initial expenditures.

11 Those are of interest to us because once we look at
12 the debits from the account, I don't see any ATM
13 withdrawals coming out of the account to pay for such
14 reimbursements. I don't see any reimbursements that
15 would align with these reimbursement checks.

16 So below Central City Youth Ministries you see
17 checks from the HIM Ministries. And if you read what
18 was in the memo lines of a lot of those checks it's
19 for -- mostly it's for reimbursement of mission expenses
20 for the mission trips taken by Mr. Maurizio. And a lot
21 of times he actually references that he fronted cash up
22 front for these expenditures, and now he's being
23 reimbursed for them.

24 For example, if you look at check number 135, which
25 would be the second check listed under the HIM

1 Ministries account it says "to cover cash loan from
2 Father Joe to cover checks."

3 On page 2 -- and I kind of have these couple items
4 highlighted -- it says on item number 204 for \$3,000 it
5 says "cash paid in Nicaragua for orchard by Karen
6 Keasley." Below that, check number 205 it says "cash
7 paid in Nicaragua for Christmas gifts 2008" for an
8 additional thousand dollars.

9 So that sparked my interest because, again, like the
10 cash deposits, like the other reimbursements that I've
11 seen so far, I don't see him withdrawing money out of
12 these accounts to come up with cash to pay for these,
13 what appears to be some sort of cash that he's spending
14 and now being reimbursed for.

15 Below that would be -- and below that would be
16 checks that were written to Mr. Maurizio that were
17 deposited into the account. A lot of those checks are
18 just simply transfers between his accounts. That's
19 important to me because, typically, if I want to
20 withdraw money from my bank account in the form of cash
21 I'll either write a check to cash or write a check to
22 myself or write a check to the bank, and then go to a
23 teller or go to the bank and cash the check. And so I
24 listed those items just to show that that's not what was
25 happening here with these reimbursement checks.

1 Below the checks to him there's a lot of checks to
2 Our Lady Queen of Angels --

3 THE COURT: All right. I can read the document.
4 I'm going to interpose this just on grounds of
5 cumulativeness and waste of time. I mean, we have six
6 years of line by line "\$34 reimbursement for Christmas
7 party." I'm not going to be here until the end of time
8 listening to that, so I'm going to sua sponte ask for a
9 conclusion. Where are we going?

10 Q. Agent, would you please tell the bottom line of what
11 you saw when you looked at the debits, the credits, and
12 the credit card activity of Defendant Maurizio and what
13 raised a huge red flag during your analysis?

14 THE COURT: Well --

15 MS. HAINES: You asked for a conclusion, I'm
16 asking him --

17 THE COURT: No, no, no. I just -- you know,
18 you're dangling objection bait. When you say "raise a
19 huge red flag" he's going to object that it's
20 argumentative, I'm going to sustain it, so let's just
21 ask the question.

22 Q. Give us the bottom line, please, Agent.

23 THE COURT: Thank you.

24 A. The bottom line is I see checks going into his
25 personal accounts for tens of thousands of dollars of

1 reimbursement which appear to me to be cash expenditures
2 up front that he was now being reimbursed for, and I do
3 not see him withdrawing cash or paying for these
4 expenditures that he's being reimbursed for otherwise.

5 Q. So is it fair to say your conclusion is there is an
6 unknown source of cash, when he fronts all this cash
7 where you have no idea where it's coming from?

8 A. He has --

9 MR. PASSARELLO: Judge, I have to object to that
10 question.

11 THE COURT: And the basis for your objection is?

12 MR. PASSARELLO: Judge, it is calling for an
13 expert legal conclusion, an expert conclusion based upon
14 this report. He asked for an expert report -- they're
15 asking him to say there's an illegal source of funds
16 here.

17 MS. HAINES: Your Honor, with all due respect, he
18 is not saying -- he is saying from what he saw there is
19 an unknown source of cash --

20 THE COURT: Okay.

21 MS. HAINES: -- he analyzed. He said what he
22 condensed down, and when you asked me to ask him a
23 conclusion from --

24 THE COURT: Well, I --

25 MS. HAINES: -- evidence he's looked at that is

1 not an expert opinion. He's a case agent from the IRS
2 that is testifying to his analysis.

3 THE COURT: Well, it is an opinion. But if the
4 only objection is that they didn't tell you what they
5 were going to say in advance, you know, they don't have
6 to provide everything. And even if you ask for it, they
7 don't have to provide it.

8 I'm interested to hear -- look, let me -- you
9 guys already know this, but there are extra people in
10 the courtroom and this is directed to them. My issue
11 here is the Bail Reform Act. My issue here is risk of
12 flight, and to some extent your attempt to reopen on
13 dangerousness to the community.

14 Risk of flight has nothing to do with guilt or
15 innocence of the ultimate charges. If the government
16 has brought him onboard in September to, hey, we've got
17 all this guy's financial records, let's see if we can
18 build a tax prosecution. You know, that's a whole other
19 kettle of fish.

20 But I want to know -- you're asking him is there
21 a -- you're asking for the conclusion that there is an
22 unknown source of cash to this defendant. All right.
23 Now, that as far as it goes is not objectionable, but it
24 is almost worthless to me. So let's narrow it down to
25 when was this cash available. Because I've got, you

1 know, 2008. So you raided this guy's house, I issued
2 the search warrant. You raided this guy's church. Did
3 you find huge stacks of cash? Did you find checkbooks
4 written in code? Did you find anything that would be
5 relevant to risk of flight?

6 You know, you go out and you can comb through all
7 this and charge him with money laundering or whatever
8 you want to do. But what I want to know is is there
9 anything today that says that the information that's
10 been disclosed so far does not allay or does raise a red
11 flag as to a question of whether he's going to flee and
12 has the ability to do so?

13 MS. HAINES: Yes, Your Honor. I can ask him that
14 question.

15 Q. Agent, did you review bank financial records up
16 until I believe the close of the statements on the 30th
17 of September of this year, 2014?

18 A. I did.

19 Q. And did your analysis on the credits, debits, and
20 activities continue up until the end of September's
21 statements of 2014?

22 A. Yeah. That's correct.

23 Q. And did the behavior on the accounts that you
24 started to testify to that concerns you about an unknown
25 source of cash continue up until the 2014 statements you

1 were looking at?

2 A. They did. In fact, the day of the search warrant he
3 went to the bank and withdrew over \$9,700, almost
4 emptying his personal checking account. And I'm still
5 not aware of where that money is.

6 Q. Did you also do further analysis of the records as
7 to the debits and the credit card history of the
8 defendant?

9 A. I did. In part of the analysis of the money coming
10 in, largely reimbursements, checks were coming in. So I
11 wanted to confirm that he wasn't, you know, paying for
12 these monies through the bank accounts or credit cards
13 somehow, and then now being reimbursed for them. And
14 that's how I concluded that there's some unknown source
15 of funds that he's using to pay for these expenses up
16 front and then being reimbursed for them.

17 Q. I'm going to show you what's been marked as
18 Government Exhibits 2 and 3. Can you identify what
19 Government Exhibits 2 and 3 are?

20 A. Yes. Government Exhibit 2 is a summary of the
21 debits or withdrawals from his personal accounts that I
22 deemed to be significant.

23 Government Exhibit Number 3 is a summary of the
24 transactions that occurred in regards to his Somerset
25 Trust credit card.

1 Q. And all three exhibits, 1, 2, and 3, you actually
2 authored those, correct?

3 A. I am.

4 MS. HAINES: I would move to admit all three at
5 this time, pending any further question.

6 THE COURT: Any objection?

7 MR. PASSARELLO: No objection.

8 THE COURT: Okay. Admitted.

9 BY MR. HAINES:

10 Q. Right to the present time, you already testified
11 about the fact that the day that the search warrant was
12 executed that you see a withdrawal of over \$9,700 that
13 came out of an account that is unaccounted for, correct?

14 A. Correct.

15 Q. What are some of the other recent activities that
16 you have seen that brought you to say that there's an
17 unknown source of cash?

18 A. In addition to the reimbursements that we've already
19 discussed, there's also several wires conducted in cash
20 that Mr. Maurizio sent to a priest in Honduras totaling
21 \$10,100.

22 Q. And what was the most recent amount of that cash
23 sent?

24 A. That was sent in May of 2013.

25 Q. And for this total of \$10,000 of cash that went via

1 Western Union to a priest in Honduras, did you undertake
2 to look if the cash that was used up front by the
3 defendant was taken out of a personal account or put on
4 his credit card?

5 A. I did. The only transaction that I found that could
6 have possibly been used to fund some of the monies that
7 went to Honduras via Western Union would have been a
8 \$2,000 check. It's on page 2 of Government Exhibit 2
9 from 1st Summit Bank. It's under the checks listed
10 under the name Joseph Maurizio. And you can see in the
11 memo line that it says "Honduras for Western Union
12 transfer." However, that date is 2011. That coincides
13 with one of the transfers for \$5,000, but I couldn't
14 find any information relative to the additional \$3,000
15 plus fees that were sent that day, nor did I find any
16 information at all to suggest that the over \$5,000 that
17 was sent to Honduras via Western Union in 2013 came out
18 of any of his accounts.

19 Q. And also specific to his reimbursement requests,
20 let's say, from the most recent trips he took out of the
21 country, what did your analysis show again?

22 A. Again, my analysis showed that he was seeking
23 reimbursement for expenditures that he had in country.
24 In addition to the bank and other financial institution
25 records that I reviewed, I also got statements off of

1 Mr. Stern, who also signs the HIM Ministry checks in
2 regard to those reimbursement checks. Also received
3 documents in regards to those reimbursement checks from
4 both Wessel and Company and Mr. Stern. And those
5 documents where Mr. Maurizio is seeking reimbursement
6 for mission trips shows receipt after receipt after
7 receipt of him using cash to buy things while he's on
8 mission trips, and then seeking reimbursement for them.

9 Q. Do you find any source of that cash in his accounts
10 or in his credit card activity?

11 A. I did not.

12 Q. Did you specifically ask Mr. Stern whether he knew
13 where this unexplained source of cash was coming from
14 for the defendant?

15 A. I did.

16 Q. And what was his answer?

17 A. He said that he had never thought of it before, but
18 that is a good question because, typically, most of the
19 receipts, other than the airline fares and the rental
20 car charges, were always in the form of cash payment.

21 Q. So Mr. Stern had no idea where this other cash was
22 coming from?

23 A. He did not.

24 MS. HAINES: No further questions.

25 THE COURT: Cross examine.

1 MR. PASSARELLO: Sure.

2 CROSS-EXAMINATION

3 BY MR. PASSARELLO:

4 Q. These Western Union wire transfers, did you get the
5 receipts from Wesell for those?

6 A. I believe -- I haven't had an opportunity to look at
7 every Wesell record, but I believe they sent information
8 at least relative to one of those transactions.

9 Q. But do you know where that \$10,000 went?

10 A. Yes. It went to a priest in Honduras.

11 Q. Do you know what it went for?

12 A. Exactly what it went for, no, I do not.

13 Q. If I told you that that money went to --

14 MS. HAINES: Objection, Your Honor.

15 MR. PASSARELLO: -- children on the street --

16 THE COURT: Let's hear the question.

17 Q. If I told you that that money was cash transfers
18 from Western Union went to Father Satrino San Pedro for
19 Bishop Encilian Sanchez to feed kids -- starving kids on
20 the street, would you have any documentation or
21 paperwork to contradict that?

22 THE WITNESS: I --

23 THE COURT: No, hold on, there's an objection.

24 Is there any objection?

25 MS. HAINES: No there's not, Your Honor.

1 THE COURT: Okay. All right. You may answer.

2 THE WITNESS: I do not.

3 BY MR. PASSARELLO:

4 Q. And if Wesell has the receipts and documentation for
5 that, you would be able to get that?

6 A. If they have it would I be able to get it, yes.

7 Q. Okay. And I think you testified that these
8 spreadsheets are from three accounts, Somerset, 1st
9 Summit, and Stifle Nicolaus?

10 A. Correct.

11 Q. And those are accounts that have already been
12 provided in the letter that we provided to Attorney
13 Haines?

14 A. Correct.

15 Q. And am I wrong that if the Court freezes those
16 accounts that Father Joe would not have access to those
17 accounts?

18 A. Yes. He wouldn't have access to those accounts if
19 they were frozen.

20 Q. And so I'm clear, have you filed charges against
21 Father Joe for any IRS problems?

22 A. No. I just became involved in this investigation
23 three weeks ago.

24 Q. Okay.

25 MR. PASSARELLO: I don't have anything further

1 from this witness.

2 MS. HAINES: I have one question, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. HAINES:

5 Q. Special Agent, are you able or are you aware of
6 anybody who is able to freeze unknown sources of cash?

7 A. No.

8 THE COURT: I was going to say, I'd love to hear
9 the answer to that because I'd love to know how you do
10 that.

11 All right. I do have a couple questions. How
12 many, let's say, middle-level professionals, attorneys,
13 CPAs, doctors, have you audited in the course of your
14 career with the IRS?

15 THE WITNESS: I've never audited anybody. That's
16 what a revenue agent does. I'm a special agent. I just
17 purely conduct criminal investigations --

18 THE COURT: How many --

19 THE WITNESS: In fact, on a tax case I typically
20 have a revenue agent assigned to my case to assist me
21 with technical issues.

22 THE COURT: How many of these spreadsheets have
23 you run on a doctor, a lawyer, an accountant who makes,
24 let's say, between about 50- and \$150,000 a year?

25 THE WITNESS: In 13 years I've done -- I don't

1 know how many spreadsheets I've done like this.

2 THE COURT: One, ten, a hundred?

3 THE WITNESS: A hundred probably.

4 THE COURT: A hundred, okay. All right.

5 In how many of those cases are you able to
6 determine to the last dollar, hundred dollar, thousand
7 dollar, ten thousand dollar ballpark where that person's
8 money is spent?

9 THE WITNESS: Well, usually what goes through the
10 accounts I can determine it exactly. But if it's spent
11 at Home Depot, I don't know exactly what it was spent
12 for. But I can always determine where it went,
13 typically. The only time that I can't determine where
14 money went is if the bank is unable to provide me with
15 records, which sometimes happens. Or sometimes we don't
16 request all of the records. Like, for example, we may
17 only request credits and debits over \$250 on a case,
18 just because of the cost of getting all those small
19 checks. Other than that happening though, I usually can
20 figure out exactly where the money came from and went
21 to.

22 THE COURT: Okay. So I'm a doctor. Let's say
23 I'm a doctor and I treat, let's say, people who are
24 illegal immigrants who are working at local restaurants.
25 All right. And they pay me 20, \$30 in cash for health

1 needs. And over the course of the last six years I've
2 treated maybe 100 illegal aliens. And I use that money,
3 I go to the Sheetz and buy gas, I go to Jo-Ann Fabrics
4 and buy yarn, whatever.

5 Is that going to generate a record like this?

6 THE WITNESS: If you spend -- if you have cash
7 and you just go spend it at Sheetz or a restaurant, no,
8 I wouldn't know about that because it's only --

9 THE COURT: Well, let's say I get a \$50 co-pay
10 from somebody in cash, and then I put it into my bank
11 account, and then I take money out of my bank account to
12 pay my gas bill or my water bill.

13 Is that going to generate a sheet like this?

14 THE WITNESS: Sure. Yeah. You would see -- you
15 would see, if you just took \$50 and deposited it you
16 would see it would say cash, and it would say \$50 in the
17 transaction amount line.

18 THE COURT: All right. Okay. That's kind of
19 what I'm --

20 THE WITNESS: Yeah.

21 THE COURT: -- in my own way and fashion trying
22 to figure out what these spreadsheets might mean,
23 putting it into terms of people whose financial pictures
24 would be similar to the defendant's.

25 THE WITNESS: Okay.

1 THE COURT: In light of my questions, do either
2 of counsel have anything?

3 MS. HAINES: I do.

4 REDIRECT EXAMINATION

5 BY MS. HAINES:

6 Q. The Judge posed a question of middle income or
7 doctors or lawyers who would be making I believe he said
8 between 150 and --

9 THE COURT: I said between 50 and 150.

10 Q. Do you know the amount of income that Defendant
11 Maurizio was making?

12 A. I don't know exactly. From my understanding from
13 speaking with Mr. Stern, it's in the \$20,000 range.

14 MR. PASSARELLO: Object to that; it's hearsay.

15 THE COURT: Well, that's overruled. But I recall
16 from the pretrial services report there was something
17 about \$25,000 a year.

18 Is that your recollection, Counsel?

19 THE WITNESS: That's --

20 THE COURT: Your recollection, Agent, Counsel --
21 I'm sure I could dig it out of the report.

22 MR. PASSARELLO: That's correct.

23 THE COURT: All right. The pretrial services
24 report said the defendant was previously employed by the
25 United States Navy, and he became a priest in his 40s.

1 So he had at least a career before that, so I have no
2 idea where -- and he inherited, I presume, the farm that
3 he's living on from his parents because he's living on
4 the farm that his parents owned, from the pretrial
5 services report. So there's all kinds of stuff out
6 there.

7 What I'm concerned about is what's loose that
8 could fund flight. Anything relevant to that.

9 MS. HAINES: You've heard the agent testify --

10 THE COURT: No, no, no. I mean do you have any
11 questions in redirect relative to that?

12 MS. HAINES: No.

13 THE COURT: Okay. All right. And anything from
14 you?

15 MR. PASSARELLO: No, Your Honor.

16 THE COURT: All right.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: All right. Anything else?

19 MR. PASSARELLO: Nothing from the defense, Your
20 Honor.

21 MS. HAINES: Nothing from the United States, Your
22 Honor.

23 THE COURT: All right. Do either of you wish to
24 make any argument?

25 MS. HAINES: Briefly, Your Honor.

1 THE COURT: Sure.

2 MS. HAINES: Obviously, as we've talked about in
3 the preceding hearings, this is a presumption of
4 detention case. You've heard our previous evidence on
5 danger. You've also heard, as our team is now in
6 country again following up on previous information we
7 obtained, we have found another victim who has detailed
8 for us, which we believe further fortifies danger, but
9 it also fortifies our risk of flight argument in that
10 now, as we've had testimony, that there are potentially
11 additional charges that can be coming against the
12 defendant which may elevate his need or desire to try to
13 flee, recognizing that the United States may be bringing
14 additional charges as well as Honduras.

15 More importantly on the risk of flight issue,
16 when we're talking about the financial aspects -- which
17 has been sort of the purpose that we've been going back
18 and forth over -- what we presented to you is in
19 relation to going back to the very first hearing the
20 concern that the Court had was when you look at the
21 pretrial services report, the finances that were
22 disclosed by Father Maurizio versus where he says, "In
23 addition to the above-listed assets, he's advised that
24 he has investments from which he receives monthly
25 income."

1 What you have heard, Your Honor, during this
2 hearing, as well as previous, is that what he listed for
3 us would lead one to believe that he had a personal
4 checking account of about \$2,000. Then he went right to
5 his mission checking account, with two signatures
6 required, of \$88,000. Then he lists some vehicles, an
7 ATV, land, and a residence.

8 What you've heard and have been able to see is
9 the voluminous amounts of personal accounts, as well as
10 other accounts his name was on. And, clearly, the
11 defendant recognizes the significance of his name along
12 with someone else's on an account because he
13 acknowledges one of them in the mission checking
14 account.

15 He failed to disclose well over a million
16 dollars, as the agent has testified to, in personal
17 accounts. You also have heard about how the agent's
18 analysis talks about everything he did: I looked at the
19 money coming in, I looked at the money going out, I
20 looked at his credit card activity, I also looked at
21 these reimbursements that he continually was asking for
22 that were necessitated by the fact that the defendant at
23 the outset was paying cash. And as the agent told us,
24 he was trying to find where is this cash. And it wasn't
25 on one occasion or two occasions, but as the agents

1 start trying to show you, dating the whole way back from
2 2008. And then as we talked about in the more present,
3 right up until the day of the search warrant we have
4 activity of unknown sources of cash being asked to be
5 reimbursed to the defendant with no known location of
6 where that cash came from initially.

7 We also have him, as the agent testified, on the
8 day of the search warrant withdrawing about \$9700 worth
9 of cash from one of his accounts. We don't know where
10 that money is either.

11 I think the bottom line is, Your Honor, you
12 wanted to -- you talked to us and wanted us to answer
13 the question: Risk of flight and what do we know about
14 his financials.

15 Well, when you start from what the defendant told
16 us, it has grown exponentially, which is the position of
17 the United States. Clearly you don't forget about all
18 that when you're talking either he forgot about it or he
19 didn't want us to know about it.

20 You also heard about we were supposed to be
21 provided with any potential assets that may be out there
22 in the defendant's name. Yes, we have the list that
23 came via letter from the defense counsel. But you also
24 heard about the endowment accounts. Now, it sounds like
25 the access may be limited, but you heard how the letters

1 are sent directly to the defendant, that he's told about
2 "here's your semiannual update on endowments of interest
3 to you," and attached to them are disbursement forms
4 listing specific amounts of money that could possibly be
5 accessed. We never heard about those before. They are
6 possible.

7 Now, in the grand scheme as we've developed and
8 looked into it, we had to find them, we had to digest
9 them, we had to look for them and find out what they
10 were. They weren't disclosed to us. They weren't told
11 definitely by the defendant from the beginning.

12 So when you look at presumption of detention, the
13 unknown, clear unknown sources of cash that continued
14 for years right up to the present, looking even at the
15 date of the search warrant the withdrawal of almost
16 \$10,000 that is unaccounted for right now, coupled with
17 the previous information and evidence we've given you on
18 danger, as well as what you've just heard today, we ask
19 that the defendant be detained.

20 MR. PASSARELLO: May it please the Court,
21 Attorney Haines. Your Honor, first I'm going to address
22 just briefly the danger to the community issue. I
23 believe that there's been nothing presented that should
24 change this Court's mind on its original ruling. If the
25 Court recalls correctly, the original complaint had at

1 least three alleged victims. The grand jury, for
2 whatever reason, indicted only on one. Father Maurizio
3 was aware at the original time that there were at least
4 potentially three victims in the criminal complaint.

5 We were aware of these allegations made back five
6 years ago. Father Maurizio never fled anywhere and he's
7 not -- he would never -- he's not a flight risk. But
8 we'll get into that. But what I'm saying to you, Judge,
9 is he was aware of those. I don't think danger to the
10 community has changed. You heard the testimony before
11 regarding that, so I believe that position the Court had
12 originally should remain.

13 Secondly, serious flight risk. Under the law the
14 threat of flight must be serious. And, in fact, there's
15 a case that indicates that when the defendant's assets
16 have been frozen it eliminates serious flight risk. I
17 would indicate to the Court the following: We, to the
18 best of our ability, provided every single account that
19 we could provide to the United States. We don't have
20 the resources that they have. We don't have 10,000
21 agents located in Pittsburgh, Harrisburg, Honduras, and
22 everything else to find them. We've provided everything
23 we could do. We've also provided to the Court live
24 testimony regarding those accounts and what access he
25 has to them.

1 The endowment account that they're talking about,
2 Judge, he doesn't own it, he doesn't have access to it,
3 and we already heard testimony on it.

4 Our plan before this Court, I believe we have
5 provided to this Court the least restrictive means to
6 assure his appearance absent detention. You have to
7 make a finding there's no other reasonable means absent
8 detention to assure his appearance.

9 We have provided the plan, and the plan is as
10 follows: Number one, we put his house up as collateral.
11 We have the appraisal, we have all the documents for the
12 farm.

13 Number two, every single account -- now I believe
14 we have them all -- that you think he has access to or
15 can have access to, we have agreed to freeze. Can't
16 touch.

17 We also have agreed to whatever in-home detention
18 conditions this Court wants to put on Father Maurizio so
19 that he can at least remain free until disposition of
20 his case.

21 All of this other stuff that they have done for
22 the last two hearings about well, there's going to be
23 this filing and this filing and this victim and that
24 victim and the IRS is coming. It sounded like fury and
25 signifies absolutely nothing. And the reason why is we

1 are here to focus on the indictment that is before this
2 Court today; one count of the sexual tourism charge and
3 one count of the possession of child pornography charge.
4 And that's it. And that's what we are here for today.

5 I do not believe he is a serious flight risk, and
6 the Court has to make a determination it's serious. I
7 believe we have provided a plan that would assure his
8 appearance absent continued incarceration in this case,
9 which is what is our burden of production to do. And I
10 don't believe that the Commonwealth has met their burden
11 by a preponderance that he is a serious flight risk.

12 THE COURT: You did it again; it's the federal
13 government, not the Commonwealth.

14 MR. PASSARELLO: I'm sorry.

15 THE COURT: It's okay.

16 MR. PASSARELLO: I apologize, Your Honor.

17 THE COURT: That's all right.

18 MR. PASSARELLO: The United States.

19 THE COURT: Anything else from the government in
20 rebuttal?

21 MS. HAINES: No, Your Honor.

22 THE COURT: All right. Well, let me talk about
23 the risk, or the dangerousness to the community. I have
24 heard in the initial complaint brought to me several
25 allegations of what's been referred to as sex tourism,

1 that being sexual conduct with a minor that took place
2 in another country. When it was presented to the grand
3 jury, apparently, it reduced down to one.

4 At the initial detention hearing there was a
5 statement about a local charge that was maybe in the
6 offing, and that's not happened. There's been no
7 evidence as to that. And if there's no evidence as to
8 that, there's no evidence to that.

9 Today what I've heard is that someone unknown has
10 come forward in Honduras to testify to an event that
11 took place about ten years ago.

12 Now, Attorney Haines, I know you've coached a
13 basketball team, I've coached a soccer team. If that
14 soccer team were in Honduras and ten years after the
15 fact somebody said, I was molested by my coach, you
16 know, I'm allowed to take the strength of the case into
17 account when I discuss -- when I make a ruling on
18 dangerousness to the community.

19 And an accusation -- I didn't find dangerousness
20 to the community based on the accusations that were
21 presented to me previous. This latest accusation, even
22 though it may be late-breaking information to you,
23 involves an accusation of conduct that took place years
24 and years ago, and it does not present any additional
25 evidence of dangerousness to the community.

1 As far as risk of flight goes, I detained him
2 because the defendant had declined -- and you were
3 reading from the pretrial services report, Attorney
4 Haines, that he had declined to provide information.
5 Well, subsequent to that counsel provides information.
6 I've heard about that. It appears that the amounts that
7 were disclosed have all been checked out. Now, I didn't
8 hear about this \$9,700 until today, and I still don't
9 know where that went.

10 But the claim that this HIM Ministries account
11 was a source of funds that would potentially allow the
12 defendant to flee I think has been thoroughly explored
13 and thoroughly proven not to be the case.

14 So what you have, even though we're talking about
15 large amounts of money, is you're talking about large
16 amounts of money that are either investment income which
17 spins off income for what I hope are charitable purposes
18 but, in any case, are not either legally or beneficially
19 assets of the defendant. His personal wealth has been
20 explored, and that is as counsel for the defendant has
21 said, that is freeze-able.

22 All right. But here's something that hasn't come
23 up today and has troubled me somewhat: At our telephone
24 conference there was a discussion that there was going
25 to be additional evidence as to dangerousness to the

1 community in the form of either testimony or a proffer
2 that the alleged pornographic picture, the child
3 pornography that was charged in the indictment, was, in
4 fact, manufactured by the defendant. And that would
5 make him susceptible to a 15-year mandatory minimum.
6 Notwithstanding that the defendant is 69, and whether
7 it's a 15-year minimum or 15-year maximum, you're still
8 talking about the rest of his natural life. But I
9 didn't hear anything about this alleged manufacturing.

10 Furthermore, what I haven't heard is something
11 that's unique in my experience with cases of this type.
12 You've charged the defendant with child pornography. I
13 signed the search warrant. You seized his computers,
14 you seized his flash drives, you seized his cell phone,
15 you seized everything.

16 And you said at the initial proceeding that you
17 had 18,000 images that you were going through and were
18 cataloging them and so on. And if you had found child
19 pornography, if you had found evidence that there was
20 something on there that was, I'm sure -- well, I'm not
21 sure -- I would presume, based on my experience with the
22 government in every other case, I would have heard about
23 it because it's evidence that is relevant to both
24 dangerousness to the community and risk of flight.

25 So what I have is an image of a young boy who has

1 polio, who has since died, who is alleged to have been
2 posed in a sexually provocative way. That is a
3 conclusion. I've not seen the photograph. When I
4 asked, you know, well, the government declined to
5 produce it on the grounds that -- and you cited your
6 legal basis for doing so, and that's fine.

7 But usually if you have a child pornographer
8 you've got a compulsive. You've got thousands of
9 images, you got people that can't be parted from it.
10 When we release people who are charged with child
11 pornography, one of the conditions that pretrial
12 services routinely -- they have four menu items that
13 they routinely offer as conditions on computer
14 monitoring, because usually the defendant is connected
15 to the internet. And as pretrial services officers have
16 told me, if they're compulsive they can't stay away, we
17 nab them.

18 Attorney Passarello is proffering basically a
19 home detention confinement. At the previous hearing he
20 said take away his computer, take away his access to the
21 internet, doesn't matter to us, no big deal. That's
22 very unusual. In fact, I can't recall another case
23 involving child pornography that presents both of those
24 circumstances. One image, and a defendant who says,
25 hey, disconnect me, fine, no problem. So dangerousness

1 to the community and risk of flight are obviously,
2 intertwined.

3 What cannot be overlooked in this case is that
4 defendant is a Catholic priest. I know that is so
5 because after the first hearing, when the courtroom was
6 a little more crowded than this, a person professing to
7 be a member of the press sent a nasty-gram to my chief
8 judge complaining that he wasn't allowed to sit in the
9 jury box and had to stand through the hearing.

10 Well, you know, this side of the bar is where the
11 business of the Court gets done. I don't ask Mr. Ray
12 back there to go walk around the print floor of the
13 *Altoona Mirror* -- and it wasn't you, Phil. I say
14 because I know you. And this is where it goes. But
15 what was curious about the journalist's letter, email,
16 was, And there's a substantial first amendment interest
17 in the press being able to ferret out the misdeeds of
18 Catholic priests. Wow.

19 And the local paper, they ran a completely
20 unrelated story concerning the settlement of alleged
21 abuse cases by a Franciscan monk over at Bishop McCourt
22 High School next to a story about this case as if, well,
23 you know, they're all Catholics, there's some -- the
24 government's not involved with that.

25 But what you have when you have a member of the

1 clergy is you have -- people put money in the collection
2 plate. They don't use credit cards. You have, in many
3 cases, people will come up and give a minister cash. It
4 lends itself to abuse. The IRS -- you know, some of the
5 investigations that Congress has attempted with some of
6 these mega-church donors, you know, where is this money
7 coming from, where is it going.

8 I don't care about the sloppy recordkeeping. I
9 don't care if Father Maurizio is stealing from the
10 collection plate. That's not what's here. What's at
11 issue when it comes to risk of flight is does this
12 individual have a source of income that I don't know
13 about that could possibly fund his flight. And the
14 answer to that is no.

15 Now, if you come up with evidence that there is,
16 or he's got cash tucked away in the mattress that
17 despite your search of his house you didn't find, I
18 didn't hear it today.

19 If I am to believe that despite the disclosure
20 made today and in the letter of October 16th, and the
21 testimony here today, that there is a risk of flight
22 because potentially out there there is a source of
23 income or a source of funds that could fund a flight,
24 well then no one in America could ever possibly be
25 released prior to trial ever again because everybody's

1 in that situation. We have, in this Court and every
2 other court that I'm familiar with, released on pretrial
3 conditions people who sell drugs. The very nature of
4 their business is a cash business, every dollar of which
5 is illicit.

6 Now, I don't know whether counsel for the
7 defendant's claim that the money that was wired to
8 Honduras in 2008 really went to feed street children or
9 not. But I do know that every dollar that a drug dealer
10 gets for selling cocaine is an illegal dollar, and it's
11 not going for feeding hungry kids in Honduras either.
12 And yet, we let those people out on pretrial release
13 routinely without opposition from the government.

14 The possibility that there is a source of funds
15 out there that exists no matter what the charges are,
16 any time, any place, to say that that's a risk of flight
17 would be to say there is no such thing as pretrial
18 release.

19 Furthermore, there are Third Circuit cases, which
20 have been cited to me repeatedly over the years, that
21 say a financial crime in itself is not a risk to the
22 community.

23 If, in fact, you're morphing this into a money
24 laundering charge or you're trying to also build a tax
25 case out of this, okay. But that doesn't add anything

1 to the limited inquiry that I have. I am not here for
2 guilt. I am not here for innocence. I found probable
3 cause as to the underlying charge, but I cannot find
4 that there is a risk of flight that cannot be allayed by
5 satisfactory conditions.

6 And let me talk about an equitable matter at that
7 point. This case is going to be a nightmare for Judge
8 Gibson. It's going to be a nightmare for the
9 government. It's going to be a nightmare for the
10 defense. We're talking about allegations that took
11 place ten years ago, so far, in Honduras. We're talking
12 about in some cases witnesses who have died or you've
13 had to scour countries to find, presumably Spanish
14 speaking. There are interpretation problems. There are
15 motivation problems. There is the fact that the FBI had
16 this case in 2009 and did not go forward with it. Which
17 means, for practical purposes, that there is Brady
18 material that is just all over.

19 The pretrial proceedings in this case are going
20 to take years. I expect at least one trip to the
21 circuit on interlocutory appeal. And I see that the
22 first salvo has already been fired in the defendant's
23 motion to sever the charges. That's going to require a
24 briefing. And then, undoubtedly, there's going to be
25 more pretrial motions.

1 Pretrial detention should not be pretrial
2 punishment. That is, that is not the case that the Bail
3 Reform Act says you can use that. You cannot use
4 pretrial detention to leverage a case against the
5 defendant. The government has cited in writing its
6 claim that, well, the fact that Honduras has filed an
7 arrest warrant makes the question of release moot
8 because he's going to be extradited.

9 That's not what the extradition statute says.
10 It's not even the Department of Justice's call. That's
11 the Department of State's call. And that assumes that
12 there's an extradition request.

13 Now I accept, because it's been presented to me,
14 that there was an arrest warrant issued in August of
15 this year. But if there's an extradition request that's
16 a whole separate ballpark. And as I've already
17 mentioned when I spoke with counsel before, that's a
18 very unfavorable set of precedents as far as the
19 defendant is concerned. That does result in virtually
20 automatic detention. But we're not there yet, and the
21 possibility of extradition is not something that I can
22 factor in and say, well, it's not going to do any harm
23 because he's probably going to be put in jail anyway.
24 That's just not permissible for me; it's not permissible
25 for anybody.

1 All right. I find that the risk of flight can be
2 satisfactorily countered by home detention. No visitors
3 who are minors. Not even the condition that we
4 routinely put into place that say minors can be there
5 only when supervised by an adult who has knowledge of
6 the charges. None of that. No conditions at all. Just
7 no minors. No visitors not pre-approved by pretrial
8 services. Your sister lives there, apparently --

9 MR. PASSARELLO: She does.

10 THE COURT: Is she a co-owner of the property?

11 MR. PASSARELLO: No, she's not. But she resides
12 there.

13 THE COURT: She resides there. All right. Well,
14 I'm not going to kick her out of her residence. But she
15 doesn't get visitors unless they're pre-approved by
16 pretrial services. No minors, period. So if there's a
17 Christmas thing with kids, it's not going to take place
18 there, and you're not going to go to it.

19 No internet at all. If there is a landline at
20 the house -- and I'm going to require electronic
21 monitoring. He cuts the monitor, he goes off the
22 property, you know, he goes to jail and he stays there
23 until the end of pretrial proceedings some years down
24 the road.

25 So if, in fact, there is a brick of \$20 bills

1 sitting in a safe house someplace in Windber that could
2 potentially fund a flight, the best he's got is the
3 couple minutes head start that he would have, because
4 pretrial services would immediately know that he's left
5 his property.

6 If you have a smart phone, if you have anything
7 else that is internet capable, you're going to turn that
8 over too. You're allowed what I had in the 1960s;
9 you're allowed a landline that doesn't have a picture or
10 anything else.

11 Television, yes. Not a television that you can
12 hook up to a Game Boy or an Xbox 360 and game over the
13 wire with other people, because I know those things can
14 be used as internet communication devices.

15 All the assets referred to in October 16th's
16 letter and anything that belongs to or the defendant has
17 access to he's to be off of. My understanding is that
18 -- well, obviously, you're not acting as a pastor or a
19 priest at your former parish because you've been in
20 jail. But any parish accounts you're off of those. No
21 signature authorities, nothing. I mean no access to
22 that at all.

23 I'm trying to think of how you pay the gas bills
24 at your residence. I think the defendant's sister is
25 going to have to pay the bills.

1 MR. PASSARELLO: Yes, Judge.

2 THE COURT: Attorney Passarello, I'm probably
3 going to require an accounting from you periodically as
4 to just how much cash the sister is using to pay the
5 bills, just to make sure there's not an accumulation of
6 cash that could potentially fund a flight.

7 MR. PASSARELLO: Understood.

8 THE COURT: If there is any, not signature
9 authority, any beneficial authority, any informational
10 authority about any of the accounts for HIM, the HIM
11 accounts, Humanitarian Interfaith Ministries accounts or
12 the -- what was it, the stop --

13 MR. PASSARELLO: Topshop.

14 THE COURT: Topshop or Matthew 25 or anything
15 else under whatever name, he is to come off of those. I
16 think the Ecclesiastical phrase is syndic, S-Y-N-D-I-C.
17 Back in the tutoring when the clerics were forbidden to
18 hold things, they had to find a layperson who would hold
19 it for them. You're going to have to find a syndic.
20 Either there's a successor plan or those things are just
21 going to have to go into cessation until this thing is
22 over, because if he had control over them he can't have
23 any access to them.

24 MR. PASSARELLO: I understand.

25 THE COURT: All right. Access to him, travel by

1 him, resources to him, computers. That's all the
2 conditions I think I've ever imposed in 20 years of
3 being here. I don't think I've overlooked anything, but
4 after we close the record if somebody says, oh, yeah,
5 what about the so and so -- fortunately, the election's
6 over so you don't even get to leave to go vote, unless
7 you're doing it by absentee ballot by mail.

8 You're allowed to leave the property for medical
9 care. You have to clear that in advance if you're not
10 being taken to the hospital in an ambulance which,
11 again, pretrial services would have that because you'd
12 be leaving the premises. If you're going to visit a
13 doctor as a matter of routine medical care, that's to be
14 provided in advance and cleared by pretrial services.

15 That covers every condition I have ever imposed
16 on any defendant in any case whatsoever in this court.
17 I will ask that the court reporter transcribe that. I
18 will put it in a written order. But the transcribed
19 copy of what I have just gone through will be appended
20 to my order, just so that there is no ambiguity as to
21 what I've ordered.

22 Now, sir, let me speak to you directly. In
23 previous cases I have released people on pretrial
24 conditions. If you violate any of those conditions you
25 don't get a second chance. Somebody went off the porch

1 and went down to the corner bar and bought a sixpack,
2 and they spent the rest of the pretrial period in jail.
3 Any of the conditions violated will result in a
4 revocation of my release order. There is no second
5 chance, because this has already been a more protracted
6 proceeding than any other I've been involved in, and I
7 do not intend to hold any more evidentiary hearings in
8 this.

9 Either of counsel is free to appeal my order to
10 Judge Gibson, but I'll have the paperwork out to counsel
11 today.

12 MS. HAINES: And, Your Honor, we ask that you
13 hold your release order in abeyance as we appeal to
14 Judge Gibson. Also on the grounds, not only that we
15 respectfully disagree with your decision on both risk of
16 flight and danger, but also on the fact that as of today
17 it is our understanding that some of those accounts, the
18 names have not been fully removed as of yet, and/or that
19 the potential power of attorney that's in place is his
20 niece.

21 So the United States would oppose his release,
22 one, because we're appealing and we ask you to hold in
23 abeyance and, two, because not everything has been put
24 in place, even to effectuate what you are saying should
25 be done to assure that he doesn't have access to money

1 to flee.

2 THE COURT: Oh, in case it wasn't clear, he's got
3 to do all that before he's released, just like you have
4 to post a bond and so on before you're released. So
5 that's not an issue.

6 As to the other, yeah, you routinely -- when you
7 appeal to Judge Gibson it supercedes my order pending
8 his review.

9 MS. HAINES: Thank you, Your Honor.

10 THE COURT: So I will put that in place
11 procedurally then, since the government has indicated
12 that they're going to appeal to Judge Gibson.

13 Attorney Passarello, whether you want to have
14 your ducks in a row or whether you want to litigate the
15 matter in front of Judge Gibson, that's up to you. My
16 conditions of release have been set forth, and if you go
17 ahead and remove the defendant from all those accounts
18 that I've referred to, it may do you no good, depending
19 on what Judge Gibson does, but if Judge Gibson agrees
20 with my order then that would result in the conditions
21 that I've imposed on him already being satisfied, and
22 that would not be a further impediment to actual
23 release.

24 MR. PASSARELLO: Yes, Your Honor. And I would
25 just indicate that we're in the process of revoking the

1 power of attorney, and also we have removed him from
2 some accounts he has signed. And the other accounts
3 that are in his name only I believe you have frozen, so
4 that will take care of that.

5 THE COURT: Well, yeah. I'm ordering you to come
6 up with a person to whom legal control over those
7 accounts can be assigned pending disposition of this
8 case.

9 MR. PASSARELLO: Yes, I understand.

10 THE COURT: All right. With that understanding
11 and with the government's appeal, sir, you're going to
12 be returned to custody pending Judge Gibson's decision
13 on whether to adopt or to reject my position in this
14 matter. As I've already said, a transcript of this
15 matter will be made, and that should be provided to
16 Judge Gibson as well.

17 In the meantime, please remember the advice I
18 gave you at the initial appearance. The only person in
19 the world that you can speak to without fear of hearing
20 it from the witness stand is your attorney. I would
21 advise you to talk to your attorney first. If you take
22 my advice, you'll talk to your attorney only. I've
23 never seen anybody benefit from violating rule
24 number one, which is talk to your attorney first.

25 All right. We're in recess.

1 (Proceedings concluded at 12:14 p.m.)

2 * * *

3 CERTIFICATE OF OFFICIAL REPORTER

4

5 I, Kimberly K. Spangler, Federal Official Court
6 Reporter, in and for the United States District Court
7 for the Western District of Pennsylvania, do hereby
8 certify that pursuant to Section 753, Title 28, United
9 States Code, that the foregoing is a true and correct
10 transcript of the stenographically reported proceedings
11 held in the above-entitled matter, and that the
12 transcript page format is in conformance with the
13 regulations of the Judicial Conference of the United
14 States.

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